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UNCLAS SECTION 01 OF 02 WELLINGTON 000334

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STATE FOR EB/TPP/IPE-AAREIAS, INL/C-ASHANTI AND  
EAP/ANP-TRAMSEY

E.O. 12356: N/A

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SUBJECT: NEW ZEALAND: PROPOSAL FOR 2005 IPR TRAINING  
AND TECHNICAL ASSISTANCE PROGRAM

REF: STATE 48295

Post submits the following project proposal for the 2005 Intellectual Property Rights (IPR) Training and Technical Assistance Program (reftel):

The Recording Industry Association of New Zealand (RIANZ) and the Australasian Mechanical Copyright Owners Society (AMCOS) have set up a joint intellectual property enforcement unit for New Zealand and the South Pacific region. Terence O'Neill-Joyce, RIANZ's outgoing president, has been running the unit on an ad-hoc basis since its inception in 1996. In mid-2005, he intends to operate the unit on a full-time basis and to expand its activities. Post recommends that funding be considered for the unit's activities, such as its legal and training costs.

Post believes this unit fills a gap in the efforts by New Zealand and South Pacific countries to fight music piracy. Most Pacific Island nations have no enforcement staff dedicated to protecting intellectual property rights. The unit has three main objectives: intelligence, prevention and enforcement. It is developing an intelligence framework to identify local producers of pirated works, distributors, criminal networks and recipients and to work with relevant government, law enforcement, customs and other authorities and stakeholders. The unit aims to prevent piracy by sharing intelligence with other organizations and agencies, lobbying political parties and the judiciary on the harm to industry and supporting public awareness campaigns. It will undertake enforcement operations targeting manufacturers, importers, distributors and sellers of illegal material. The unit also will train law enforcement and other agencies in the implementation of intellectual property legislation through identifying offenses and disrupting piracy activities.

The unit is working on behalf of the composers, performers and producers represented by the Australasian Performing Right Association, AMCOS, RIANZ, Independent Music New Zealand, the New Zealand Music Industry Commission and the Fiji Performing Right Association. The unit reports to those organizations' boards, but operates independently. Public and private sources within each country will fund the bulk of the unit's operating costs, with AMCOS and RIANZ funding now supporting one employee.

Embassy Apia and Embassy Suva have reviewed this proposal and report that it does not conflict with their activities.

1) Targeted to U.S. priorities.

The project would be aimed not only at the rising piracy problem in New Zealand, but also in Pacific Island nations including Fiji, the Cook Islands and Samoa, whose governments have limited ability and resources to combat piracy.

The region has received increasing numbers of pirated optical discs from Pakistan, Malaysia, Taiwan, Indonesia and China. The music industry estimates the cost of piracy activity -- including illegal DVDs, CDs and Internet downloading -- to New Zealand and South Pacific governments to be NZ \$14.25 million (US \$10.3 million) in tax revenue. The overall loss to the industry was roughly NZ \$50 million (US \$36.2 million) last year in the region, a 30 percent increase from the previous year.

2) Strong support of host government.

In the WTO, APEC and other multilateral forums, the New Zealand government has professed a strong commitment to intellectual property crime enforcement efforts. The South Pacific governments have expressed the desire to improve IPR enforcement, but also have pointed to their inability to do so because of a lack of funding and expertise.

3) Addresses key gap in IPR enforcement.

IPR enforcement is a task shared by a number of agencies in New Zealand that, in some cases, lack sufficient powers and resources to investigate and prosecute illegal traders. New

Zealand Customs, for example, does not have the power to prosecute, although it can confiscate and destroy pirated products. Instead of criminal prosecutions, holders of intellectual property rights have to pursue relief through civil lawsuits. Although the government is fully committed to enforcing its intellectual property laws, it lacks a central body to coordinate the sharing of information on illegal IP activities and enforcement efforts. The intellectual property enforcement unit addresses these deficiencies.

The unit also will oversee sharing of intelligence, expertise and training between New Zealand and the South Pacific countries. The island nations would greatly benefit from an efficient sharing of resources made possible by the unit.

4) Has capacity to achieve near term, measurable success, with metrics.

The project's performance will be judged by specific milestones, including increases in the number of enforcement operations and seizures, with percentages or numerical targets re-set annually. The unit also will be measured by the number of reports it submits to the International Federation of the Phonographic Industry (IFPI) on its contributions to IP protection and enforcement methodology.

5) Has strong project oversight and accountability measures.

The performance measures will be set at the start of each year and reviewed annually by the combined boards. Working with the boards, Embassy Wellington will closely monitor the project and continually assess its strengths and weaknesses.

6) Following is the estimated budget for the intellectual property enforcement unit for the first full year of operations:

Total costs: NZ \$533,000 (US \$386,158)

Start-up costs: NZ \$78,000 (US \$56,510)

Salaries: NZ \$215,000 (US \$155,768)

Operating costs: NZ \$240,000 (US \$173,880)

Start-up costs (NZ dollars):

|                      |          |
|----------------------|----------|
| Furnishings          | \$25,000 |
| IT costs (equipment) | \$45,000 |
| Sundries             | \$8,000  |

Salaries (NZ dollars):

|                                     |          |
|-------------------------------------|----------|
| Unit head                           | \$90,000 |
| Intelligence and policy development | \$60,000 |
| Licensing and enforcement officer   | \$40,000 |
| Administrative support              | \$25,000 |

Operating costs (NZ dollars):

|  |          |
|--|----------|
| Accommodations (rental, utilities)       | \$55,000 |
| IT support                               | \$15,000 |
| Legal costs (investigation, prosecution) | \$75,000 |
| Training (internet piracy, law)          | \$50,000 |
| Travel costs                             | \$35,000 |
| Employer liabilities                     | \$10,000 |

NOTE: In U.S. dollars, legal costs would be \$54,338 and training costs would be \$36,225.

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